

Environmental Protection Agency

§ 1042.901

§ 1042.850 Exemptions and hardship relief.

This section describes exemption and hardship provisions that are available for owner/operators of engine subject to the provisions of this subpart.

(a) Vessels owned and operated by entities that meet the size criterion of this paragraph (a) are exempt from the requirements of this subpart I. To be exempt, your gross annual revenue for the calendar year before the remanufacture must be less than \$5,000,000 in 2008 dollars or the equivalent value for future years based on the Bureau of Labor Statistics' Producer Price Index (see www.bls.gov). Include all revenues from any parent company and its subsidiaries. The exemption applies only for years in which you meet this criterion.

(b) In unusual circumstances, we may exempt you from an otherwise applicable requirement that you apply a certified remanufacturing system when remanufacturing your marine engine.

(1) To be eligible, you must demonstrate that all of the following are true:

(i) Unusual circumstances prevent you from meeting requirements from this chapter.

(ii) You have taken all reasonable steps to minimize the extent of the nonconformity.

(iii) Not having the exemption will jeopardize the solvency of your company.

(iv) No other allowances are available under the regulations in this chapter to avoid the impending violation.

(2) Send the Designated Compliance Officer a written request for an exemption before you are in violation.

(3) We may impose other conditions, including provisions to use an engine meeting less stringent emission standards or to recover the lost environmental benefit.

(4) In determining whether to grant the exemptions, we will consider all relevant factors, including the following:

(i) The number of engines to be exempted.

(ii) The size of your company and your ability to endure the hardship.

(iii) The length of time a vessel is expected to remain in service.

(c) If you believe that a remanufacturing system that we identified as being available cannot be installed without significant modification of your vessel, you may ask us to determine that a remanufacturing system is not considered available for your vessel because the cost would be excessive.

Subpart J—Definitions and Other Reference Information

§ 1042.901 Definitions.

The following definitions apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the Clean Air Act gives to them. The definitions follow:

Adjustable parameter means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if adjusted, may affect emissions or engine performance during emission testing or normal in-use operation. This includes, but is not limited to, parameters related to injection timing and fueling rate. You may ask us to exclude a parameter that is difficult to access if it cannot be adjusted to affect emissions without significantly degrading engine performance, or if you otherwise show us that it will not be adjusted in a way that affects emissions during in-use operation.

Aftertreatment means relating to a catalytic converter, particulate filter, or any other system, component, or technology mounted downstream of the exhaust valve (or exhaust port) whose design function is to decrease emissions in the engine exhaust before it is exhausted to the environment. Exhaust-gas recirculation and turbochargers are not aftertreatment.

Amphibious vehicle means a vehicle with wheels or tracks that is designed primarily for operation on land and secondarily for operation in water.

Annex VI Technical Code means the "Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines, 1997," adopted by the International Maritime Organization (incorporated by reference in § 1042.910).

Applicable emission standard or *applicable standard* means an emission standard to which an engine is subject;